

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----	)	
	)	
PUBLIC UTILITIES COMMISSION	)	DOCKET NO. 2022-0250
	)	
Instituting a Proceeding	)	
To Investigate Equity	)	
_____	)	

ORDER NO. 38759

INSTITUTING A PROCEEDING TO INVESTIGATE ENERGY EQUITY

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----	)	
	)	
PUBLIC UTILITIES COMMISSION	)	DOCKET NO. 2022-0250
	)	
Instituting a Proceeding	)	ORDER NO. <b>38759</b>
To Investigate Equity	)	
_____	)	

INSTITUTING A PROCEEDING TO INVESTIGATE ENERGY EQUITY

By this Order, the Public Utilities Commission ("Commission") institutes a proceeding to investigate how to better integrate equity and justice considerations across Commission proceedings and the Commission's work more broadly, including in its role overseeing and regulating the functions of public utilities.

I.

INTRODUCTION

In 2022, the Thirty-First Legislature of the State of Hawaii ("Legislature") adopted three resolutions requesting that the Commission consider efforts to mitigate high energy burdens for low- and moderate-income customers and to investigate how to

integrate considerations of energy equity and justice across Commission work.<sup>1</sup>

Independently, the Hawaii State House of Representatives passed H.R. No. 43 and the Hawaii Senate ("Senate") passed S.R. No. 43 respectively, which each requested the Commission consider mitigation of energy burdens and investigate considerations of energy equity and justice.<sup>2</sup> Then, the joint Legislature agreed on, and the Senate passed, the concurrent resolution S.C.R. 48 which noted, among other things, Hawaii's high energy costs and the difficulty lower income households face in light of those costs, and requested the Commission examine:

- (1) Low- and moderate-income rate discounts, bill credits, and direct payments and whether these would be appropriate in the State;
- (2) Expanded availability of utility bill assistance programs and whether adequate payment plan arrangements are available to low- and moderate-income customers who are facing economic challenges, such as loss of employment;
- (3) Measures to protect low- and moderate-income households, senior citizens, and households with infants from service disconnections, including reporting requirements for all utilities on the number of customers annually disconnected due to non-payment;
- (4) The advantages and disadvantages of rate design, program offerings, and the

---

<sup>1</sup>H.R. Res. 43, Haw. 31st Leg. (2022) ("H.R. Res. 43"); S. Res. 43, Haw. 31st Leg. (2022) ("S. Res. 43"); S. Con. Res. 48, Haw. 31st Leg. (2022) ("S.C.R. 48").

<sup>2</sup>H.R. Res. 43; S. Res. 43.

requirements of community benefits agreements to address energy burden, energy insecurity, and environmental and energy justice concerns related to energy projects and programs; and

- (5) Other customer-centric solutions to lessen the energy burden on low- and moderate-income customers and determine appropriate benefits above and beyond those accrued to the overall electric grid for communities that serve as geographic hosts to utility scale energy projects[.]<sup>3</sup>

The Legislature asked the Commission to establish the necessary proceeding or proceedings to conduct the examination and then to submit a report to the Legislature of the Commission's findings and recommendations no later than twenty days prior to the convening of the Legislature's Regular Session of 2023.<sup>4</sup>

The Senate also adopted Senate Resolution No. 33, which found that the rising costs of public utility services could present an undue burden on retired senior citizens -- particularly those living on fixed incomes -- and "requested [that the Commission] assess the actions taken by public utilities and to determine whether any additional legislation is needed to ensure that retired senior citizens receive fifty percent rate discounts[.]"<sup>5</sup>

---

<sup>3</sup>S.C.R. 48.

<sup>4</sup>S.C.R. 48.

<sup>5</sup>S. Res. 33, Haw. 31st Leg. (2022) ("S. Res. 33").



Pursuant to S.C.R. 48, S. Res. 33, and the Commission's investigative powers under Hawaii Revised Statutes ("HRS") § 269-7, the Commission opens this docket to consider efforts to mitigate high energy burdens for low- and moderate-income customers and to investigate how to integrate considerations of equity and justice across Commission work. The Commission notes that this docket is not intended to determine any specific legal rights, duties, or privileges of any specific parties and therefore that this docket is not a "contested case" under HRS § 91-1.

Through this proceeding, the Commission intends to address the specific matters set forth by the Legislature, and, more broadly, the Commission intends to further the State's policy goals, to improve energy affordability and reduction of energy burdens for vulnerable customers, to ensure the burdens and benefits of energy infrastructure and the renewable energy transition are equitably distributed, including increasing accessibility of Commission proceedings among vulnerable and/or underrepresented customers.<sup>6</sup>

---

<sup>6</sup>The status of this docket will be included in the Commission's report to the Legislature which is currently being prepared and will be submitted no later than twenty days prior to the convening of the Legislature's Regular Session of 2023.

## II.

### NAMED PARTIES

The Commission names HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., and MAUI ELECTRIC COMPANY, LIMITED (collectively "Hawaiian Electric") and KAUAI ISLAND UTILITY COOPERATIVE ("KIUC") as parties to this docket. The DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") is an ex officio party to this proceeding pursuant to HRS § 269-51 and Hawaii Administrative Rules § 16-601-62(a).

The Commission does not initially name Hawaii Gas as a party to this docket but encourages its participation to the extent desired. The Commission believes that initially limiting the scope of the docket to electric utilities and to the Commission's processes will allow a focused and expedient proceeding that can set a strong foundation, which could then inform and bear on proceedings involving gas and other utilities in the near future. The Commission will open such other proceedings via separate order.

The Commission intends to regularly seek public input on this docket and may solicit such input at any time. At this time, the Commission encourages other persons and/or entities to

participate, including the Hawaii State Energy Office, any member of the Energy Equity Hui,<sup>7</sup> and Hawaii Energy.

### III.

#### DISCUSSION

##### A.

#### Background

Addressing energy equity and justice is of paramount importance across the country and is particularly critical in Hawaii given the unique posture of our State and the circumstances and pressures affecting energy here. The Commission agrees with the findings of State House of Representatives Committee on Energy & Environmental Protection that Hawaii has the highest electricity rates in the nation, that utilities do not offer specific low- to moderate-income discount rates, and that "it is critical to assist low- and limited-income customers by reducing their residential electricity burden and ensuring continued access to electrical power."<sup>8</sup> The Commission also agrees with the findings of the Senate Committees on Commerce and Consumer

---

<sup>7</sup>The Energy Equity Hui is an informal statewide government-nongovernment collaborative group, convened by Hawaii Energy, working to ensure equitable outcomes in the achievement of state energy policy goals.

<sup>8</sup>Stand Com. Rep. No. 2070-22, Re: S.C.R. No. 48, S.D. 1.

Protection and Energy, Economic Development, and Tourism that low-income households spend a larger percentage of their income on home energy costs, that certain communities -- and especially those in economically challenged areas -- have shouldered the burden of hosting large renewable energy projects, and that these and other factors make lower-income households vulnerable to energy insecurity.<sup>9</sup>

These considerations should be given extra attention now during the State's accelerating transition to 100% renewable energy. The Commission will strive to ensure not only to address energy equity generally, but to ensure that existing energy inequity is not exacerbated or overlooked during the transition.

Although the Commission intends to broadly incorporate equity and access into all of its work, the Commission will use this docket as the primary means of investigating issues of energy equity and justice, and solicit outside feedback.

## B.

### Definitions

To assist in the efficiency of the Commission's investigation into issues of energy equity, the Commission offers the following initial definitions for use in this docket.

---

<sup>9</sup>See Stand. Com. Rep. No. 3703 (2022), Re: S.C.R. No. 3703, S.D. 1.

The Commission may revisit these definitions as this docket progresses and may further define terms in the future should such definitions prove useful or necessary.

1.

Key Terminology<sup>10</sup>

<u>Term</u>	<u>Definition</u>
Equity	Equity "refers to achieved results where advantage and disadvantage are not distributed on the basis of" social identities. <sup>11</sup> "Strategies that produce equity must be targeted to address the unequal needs, conditions, and positions of people and communities that are created by institutional and structural barriers." <sup>12</sup>
Energy Equity	Energy Equity refers to the goal of achieving equity in both the social and economic participation in the energy system, while also remediating social, economic, and health burdens on those historically harmed by the energy system.

---

<sup>10</sup>The Commission's definitions have been informed by its own dockets and expertise, and by the Hawaii Public Utilities Commission Guiding Equity Definitions -- a list of equity elements and shared language contained in academic and quasi-academic literature -- developed by Lawrence Berkeley National Laboratory, with assistance from National Renewable Energy Laboratory and guidance from Argonne National Laboratory, Oak Ridge National Laboratory, and Pacific Northwest National Laboratory for the Hawaii Public Utilities Commission ("Guiding Equity Definitions"). The Guiding Equity Definitions document is attached hereto as Exhibit 1, but the Commission notes that the document is still being revised and is in draft form.

<sup>11</sup>Guiding Equity Definitions (citing Race Matters Institute, About Us, <https://viablefuturescenter.org/racemattersinstitute/about-us-2/> (last visited Oct. 7, 2022)).

<sup>12</sup>Guiding Equity Definitions (citing Race Matters Institute, About Us, <https://viablefuturescenter.org/racemattersinstitute/about-us-2/> (last visited Oct. 7, 2022)).

Vulnerable Populations	Vulnerable Populations are those who are economically disadvantaged, certain racial and ethnic minorities, such as Native Hawaiians, the elderly, rural residents, those with inadequate education, and those with other socioeconomic challenges.
Over-Burdened Populations	Over-Burdened Populations are certain minority, low-income, native Hawaiian or Pacific Islander, or geographic locations that experience disproportionate environmental harms and risks.
Low- to Moderate-Income Persons	Low- to Moderate-Income persons are those whose income is at or below 150% of the Hawaii Federal Poverty Limit.
Energy Burden	Energy Burden is the percent of a household's income spent to cover energy cost.

## 2.

### Equity Tenets

<u>Term</u>	<u>Definition</u>
Distributive Equity	Distributive Equity is recognized as sustainability programs and policies resulting in fair distributions of benefits and burdens across all segments of a community, prioritizing those with highest need.
Procedural Equity	Procedural Equity is the inclusive, accessible, authentic engagement and representation in processes to develop or implement sustainability programs and policies.
Recognition Justice	Recognition justice identifies who is being ignored in decision-making, and how that should be remedied so that all individuals are fairly represented and offered equal political rights.
Intergenerational Justice	Intergenerational justice relies on making decisions based on whether a decision would "increase rather than limit the development options of future generations." <sup>13</sup>

---

<sup>13</sup>Guiding Equity Definitions (citing Brown, M. A., Soni, A., Lapsa, M. V., & Southworth, K., Low-Income Energy Affordability:

C.

Challenges to Energy Equity in Hawaii

Energy equity is an expansive topic that comprises near countless sub-issues that are all individually worthy of investigation. However, this docket has concrete goals and needs concrete bounds to be efficient and effective. To corral the most important issues in pursuit of meaningful progress, the Commission finds that the items set forth below -- for the purposes of this docket -- are the most pertinent challenges toward achieving and sustaining energy equity in Hawaii. This list is not meant to be exhaustive and the fact that an issue is not included in the list does not suggest that the Commission is minimizing that issue or is not considering it. Rather, the list below is intended to serve as a set of guideposts for the challenges considered in this docket.

1. High Energy Rates. As described above, the Commission finds that Hawaii has the highest electricity rates in the nation.<sup>14</sup>

---

Conclusions from a Literature Review, Oak Ridge National Laboratory, Oak Ridge, TN (Mar. 2020) (available at: <https://info.ornl.gov/sites/publications/Files/Pub124723.pdf>)).

<sup>14</sup>S.C.R. 48 ("Hawaii's electricity rates are the highest in the nation, at close to three times the national average[.]").

2. High Percentage of Low- and Moderate-Income Persons. The Commission finds that Hawaii has a high percentage of persons and families that qualify as low- or moderate-income.<sup>15</sup>

3. High Energy Burden. The Commission finds that, as a result of the State's high energy rates and high percentage of low- and moderate-income persons and families, the Energy Burden for certain, and numerous, residents of Hawaii is unduly high.

4. Lack of Universal Access to Renewable Energy Initiatives. The Commission finds that a significant portion of the residents of Hawaii (such as apartment renters, condominium owners, and some low- to moderate-income customers due to the upfront costs) cannot participate directly in certain renewable energy initiatives (such as rooftop solar programs or solar plus storage programs).<sup>16</sup>

5. Need for Utility Payment Assistance. Given Item Nos. 1 through 4, above, the Commission finds that Hawaii has an increased need for utility payment assistance programs.

---

<sup>15</sup>S.C.R. 48 (noting that "forty-two percent of households in the State live below the ALICE (asset limited, income constrained, employed) threshold, meaning that almost half of all families in Hawaii are struggling to make ends meet, even though they are employed").

<sup>16</sup>See, e.g., Docket No. 2015-0389, Order No. 37070, "Commencing Phase 2 of the Community-Based Renewable Energy Program," filed on April 9, 2020, at 17-18.



6. Historic Siting of Fossil Fuel Infrastructure.

The Commission finds that the historic siting of fossil fuel infrastructure has disproportionately impacted Vulnerable Populations.<sup>17</sup>

7. Land Constraints. The Commission finds that the relative unavailability of land in Hawaii is a challenge to achieving and sustaining Energy Equity.

8. Regulatory Process Burdens. The Commission finds that it can be difficult and costly to participate in the traditional regulatory process.

D.

Consideration of Other Equity Actions

The Commission observes that other actions involving questions of equity have been explored or are currently pending before the Commission and that a successful investigation of Energy Equity requires a consideration of these actions. Specifically, the Commission identifies the following:

---

<sup>17</sup>See Docket No. 05-0146, Decision and Order No. 23514, filed on June 27, 2007. See also U.S. Environmental Protection Agency, Power Plants and Neighboring Communities, May 12, 2022 (available at: <https://www.epa.gov/airmarkets/power-plants-and-neighboring-communities>).

Docket #	Short Description
Community-Based Renewable Energy (CBRE): 2015-0389	<p>CBRE LMI Projects - unlimited capacity, LMI verification criteria and options, mandatory community meetings/engagement, and possible considerations for community benefits agreements (non-price criteria in RFPs).</p> <p>The Commission has received technical assistance from the US Department of Energy (DOE) on options and criteria for verifying LMI customers for CBRE programs.</p>
HECO Special Medical Needs Program (SMNPP): 2020-0056	Decision and Order No. 38164, established a permanent Special Medical Needs Program, which offers a discounted rate for customers that are dependent on life-support devices or with certain medical issues.
Electric Vehicle (EV) Dockets (various)	The Commission required consideration of deployment of EV infrastructure in underserved communities, which is occurring across multiple dockets. For example, the Commission required HECO to define underserved communities in Docket No. 2020-0202.
Public Benefits Fee (PBF) / Energy Efficiency (EE): 2007-0323	<p>Hawaii Energy's programming focuses heavily on the "Affordability &amp; Accessibility" population, including LMI, hard-to-reach, and Asset-Limited, Income-Constrained, Employed (ALICE) customers.</p> <p>Hawaii Energy uses a multi-pronged geographic/zip-code methodology to identify LMI populations.</p> <p>Hawaii Energy founded and hosts the Energy Equity Hui.</p> <p>Hawaii Energy collaborates with HECO to focus programs and projects in LMI communities.</p> <p>Hawaii Energy collaborates with various other stakeholders/orgs (e.g., United Way) for targeted LMI programming.</p> <p>Hawaii Energy's program must be proportionally distributed across the islands it serves.</p>
Performance-Based Regulation (PBR): 2018-0088	<p>HECO must track and publicly report on multiple affordability and equity metrics.</p> <p>HECO can earn financial rewards via a Performance Incentive Mechanism (PIM) for collaborating with Hawaii Energy to deliver energy savings for LMI customers.</p> <p>HECO proposed to allocate a portion of funds saved under a cost-control Shared Savings Mechanism to LMI customers.</p>
Distributed Energy Resources (DER): 2019-0323	The Commission asked Parties to consider the benefits and challenges to offering rate discounts for LMI customers and to propose other programmatic approaches to support LMI customers. Parties proposed various ideas, such as a high-level rate subsidy framework developed by HECO, and low-income DER programs such as a Virtual Net Metering or Self-Consumption Program, shared solar, a multi-family water heating demand response program, and others.

Docket #	Short Description
Renewable Energy Request for Proposals (RFP) Docket: 2017-0352	HECO is now requiring bidders to include community benefits packages into their proposal submissions.
Integrated Grid Planning (IGP): 2018-0165	The Commission has required HECO to develop a community outreach plan related to proposed Renewable Energy Zones that are intended for geographically targeted generation and transmission development.
Green Infrastructure Loan Program: 2014-0135	The GEMS Program PN15 proposes various avenues of potential support for LMI customers
Deferral of Covid Costs and Suspension of Utility Disconnections: 2020-0069, 2020-0209, and 2020-0088	The Commission enacted a disconnection moratorium in response to the COVID-19 pandemic and approved deferred accounting of COVID costs. HECO, KIUC, and Hawaii Gas provide quarterly reports on metrics such as customers in arrears, disconnections, and others.
Past Docket 05-0146	HECO worked with the Waianae community to co-develop a community benefits package associated with construction of the Campbell Industrial Park Generating station.
Non-Docketed/Related Activities	PUC staff participate in the Energy Equity Hui.
	<p>The US DOE is providing technical assistance to the Commission to develop a decision-making framework for considering equity in the procurement of utility-scale renewable energy.</p> <p>HECO has established an LMI Advisory Council to provide assistance in supporting LMI customers.</p> <p>HECO offers an Ohana Energy Gift program that allows customers to donate to help friends and family or others in need.</p> <p>HECO offers a Life Support Program to track and support customers with electricity-dependent medical equipment.</p> <p>HECO offers a Tier Waiver Provision Program for customers receiving Low-Income Home Energy Assistance Program (LIHEAP) benefits to be billed at the lowest tiered rate for their energy for 12 months.</p> <p>KIUC offers annual, one-time credits to assist customers in need, called the Low-Income Payment Assistance Program.</p> <p>In conjunction with the Department of Consumer Advocacy, the Commission is hosting a Working Group to develop a Hawaii state LIHEAP, as directed by the State Legislature.</p>

#### IV.

##### PRELIMINARY SCOPE AND PROPOSED PROCESS

###### A.

###### Preliminary Scope

The Commission would like to lower or entirely remove barriers to participation in this docket. The Commission would like to hear from any interested persons on equity issues, and especially from communities that host energy facilities, people with a high energy burden, and people that do not typically participate in Commission dockets. The Commission is open to any suggestions that would promote broad participation in this docket. Because the Commission does not want technical issues to prevent any interested person from participating in this docket, any person may call the Commission at 808-586-2020 with any questions about how to participate in this docket. The Commission intends to make meetings in this docket open to all interested persons, both in-person and remotely.

###### B.

###### Proposed Docket Process

Initially, the Commission will use this proceeding to consider a suite of actions under five broader categories: (1) energy affordability & direct payment assistance (e.g., rate discounts, subsidies, bill credits, etc.); (2) equitable access to

clean energy (e.g., expanding participation in customer programs, exploration of community benefits packages, expanded and enhanced clean energy financing programs, etc.); (3) utility business model reforms (e.g., increased reporting and transparency, disconnection moratoriums, modified accounting practices for non-payment, etc.); and (4) procedural equity improvements (e.g., developing a PUC equity and justice action plan, improving accessibility of PUC proceedings, improved community engagement and customer education, etc.).

The Commission intends to hold an opening conference to further define and elaborate on these pathways and to solicit initial feedback on its direction. The opening conference shall take place via a hybrid system such that it will be accessible both in-person and digitally on a date to be set by the Commission in the coming weeks. The Commission may also seek written comments from participants in the opening conference, and from any member of the public. Based on its ongoing research, feedback given at the opening conference, and written comments, Commission staff will draft a straw proposal that includes possible equity actions that will either inform the Commission's legislative efforts or further define the scope of this docket.

Future Commission actions in this docket may include: (1) establishing working groups dedicated to specific topics and tasks; (2) additional conferences, workshops, and meetings;

(3) soliciting additional public comments; (4) ordering limited discovery; (5) soliciting statements of position, if and when appropriate; and (6) Commission decisions and orders, if needed.

V.

NEXT STEPS

Any person or entity interested in Energy Equity is encouraged to attend the opening conference, provide written comments, or participate in this proceeding in any way they find convenient. The Commission will hear motions for intervention or participation in this investigation on the timeline set forth herein, but no such motion shall be necessary to provide input in this proceeding. The Commission named certain entities as Parties to this docket seeking a balance of providing robust opportunities to investigate Energy Equity (and other issues named herein) while still allowing a focused and expedient proceeding that can set a strong foundation which could then inform and bear on proceedings involving gas and other utilities in the near future. However, as indicated, the Commission intends to regularly seek public input on this docket and may solicit such input at any time, and encourages other persons and/or entities to provide this input without needing to file a motion to intervene or participate and be admitted as a Party. The Commission will issue an order setting the opening conference in due course.

To encourage participation in this proceeding and reduce the possibility that a person or entity chooses not to participate for financial reasons, the Commission waives the \$15.00 fee associated with filing a motion for intervention or participation.<sup>18</sup> The Commission waives this fee in this docket in the interest of securing "the just, speedy, and inexpensive determination of every proceeding."<sup>19</sup> In order to take advantage of this fee waiver, persons and/or entities interested in electronically filing a motion to participate or intervene should select the "Other Motions" option from the "Document Type" drop-down menu when e-filing their motion.<sup>20</sup> This will allow the filer to bypass the fee requirement pursuant to the waiver granted by this Order. Persons and/or entities seeking to file motions to intervene or participate in person at the Commission's main office (located at 465 S. King St., Rm. 103, Honolulu, HI 96813) should indicate to the clerk that the fee associated with filing a motion

---

<sup>18</sup>HAR § 16-601-24(4).

<sup>19</sup>HAR § 16-601-1. HAR § 16-601-24 requires a filing fee for motions to intervene or participate ("filing fees shall be paid"), and thus the Commission finds that, in this instance, requiring filing fees would be inconsistent with securing the just, speedy, and inexpensive determination of this proceeding pursuant to HAR § 16-601-1.

<sup>20</sup>Additional information about e-filing a document with the Commission is available at: <https://puc.hawaii.gov/filing/efiling/>

to intervene or participate in this docket has been waived per this Order.

## VI.

### ORDERS

#### THE COMMISSION ORDERS:

1. Pursuant to HRS § 269-7, this proceeding is instituted to investigate how to better integrate equity and justice considerations across Commission proceedings and the Commission's work more broadly, including in its role overseeing and regulating the functions of public utilities. To focus on the specific concerns raised by the Legislature and to facilitate a focused and expedient proceeding, this docket will focus on Energy Equity.

2. The Commission does not consider this a contested case proceeding.

3. Hawaiian Electric, KIUC, and the Consumer Advocate are named as Parties to this docket.

4. Any motion to intervene or participate in this proceeding must be filed not later than twenty days from the date of this Order, pursuant to HAR § 16-601-57(3)(B), however, as noted above, the Commission intends to regularly seek public input on this docket and may solicit such input at any time, and encourages other persons and/or entities to provide this input without needing



to file a motion to intervene or participate and be admitted as a Party.

5. The \$15.00 filing fee associated with filing motions to intervene or participate is waived for this docket.

DONE at Honolulu, Hawaii DECEMBER 13, 2022 .

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By \_\_\_\_\_  
Leodoloff R. Asuncion, Jr., Chair

By \_\_\_\_\_  
Naomi U. Kuwaye, Commissioner

By \_\_\_\_\_  
Colin A. Yost, Commissioner

APPROVED AS TO FORM:

\_\_\_\_\_  
Jack Relf  
Commission Counsel

2022-0250.ljk

## Hawaii Public Utilities Commission Guiding Equity Definitions

Lawrence Berkeley National Laboratory (LBNL) with assistance from National Renewable Energy Laboratory (NREL) and guidance from Argonne National Laboratory (ANL), Oak Ridge National Laboratory (ORNL), and Pacific Northwest National Laboratory (PNNL) are developing a comprehensive list of equity elements and shared language contained in the academic and quasi-academic literature for the Hawaii Public Utilities Commission (HIPUC). This literature review is intended to help inform the HIPUC's development of a consistent framework to measure the energy and environmental justice impacts for the review of utility applications for energy generation projects. This document is still under review. Ultimately, these terms will be prioritized and further customized for the HIPUC renewable energy (RE) procurement process.

Currently, the content and terms in this document are selected from the literature for the Hawaii context and enable a systematic rubric for assessing the equity dimensions of energy proposals. Five interactive tools to measure equity and a number of programs were evaluated across ten states to provide examples of how to measure, operationalize or regulate renewable energy procurement in Hawaii. Please note that HIPUC may already be familiar with these terms and may have already implemented them in their own regulation.

### *1. Defining Native Hawaiians, Hawaiians, and Pacific Islander*

In this document, we present different identity definitions from the literature for HIPUC to consider for use in their forthcoming RE procurement framework. However, it would be beneficial for the HIPUC to develop definitions of Native Hawaiians, Hawaiians, and Pacific Islanders that are also cross-cutting and can be used in future regulation. Please note that these identity definitions may be different from the Department of Hawaiian Homeland identity definitions, which developed their terms for the specific purpose of allocating land. The HIPUC will be using their terms for altering regulation.

The terms Hawaiian and Native Hawaiian were not validly ratified at the Hawaii Constitutional Convention of 1978.<sup>1</sup> Generally, the term Native Hawaiian is a smaller class of people. The Office of Hawaiian Affairs identifies a minimum blood quantum to be considered Native. Many Indigenous peoples oppose blood quantum metrics and characterize them as a colonial framework of oppression to dispossess Native peoples from land, resources, and federal entitlements.<sup>2</sup> Instead, many Indigenous peoples identify themselves as Native through ancestry, kinship, customs, and ceremony. Definitions of Pacific Islander identities were not as widely available and appeared more open to interpretation.

Native Hawaiian (Kānaka 'Ōiwi, Kānaka Maoli)

1. "Native Hawaiians comprise a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago whose society was organized as a Nation prior to the arrival of the first nonindigenous people in 1778."<sup>3</sup>

---

<sup>1</sup> Hawaii Legislative Reference Bureau - Article XII, section 7 (accessed August 2, 2022) <https://lrh.hawaii.gov/constitution/>

<sup>2</sup> Harvard Political Review (accessed August 3, 2022) <https://harvardpolitics.com/blood-quantum/>

<sup>3</sup> U.S. Congress 42 USC §11701. Senate Bill 2681 (accessed August 3, 2022) <https://www.govinfo.gov/content/pkg/USCODE-2011-title42/html/USCODE-2011-title42-chap122.htm>

2. “Native Hawaiian means any individual who is a descendent of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.”<sup>4</sup>
3. “Native Hawaiians are defined as individuals having at least 50 percent Hawaiian blood.”<sup>5</sup>
4. “The term 'native Hawaiian' means any descendant of not less than one-half part of the blood of races inhabiting the Hawaiian Islands previous to 1778.”<sup>6</sup>
5. “Native Hawaiian means any descendant of not less than one-half part of the races inhabiting the Hawaiian Islands previous to 1778, as defined by the Hawaiian Homes Commission Act, 1920, as amended; provided that the term identically refers to the descendants of such blood quantum of such aboriginal peoples which exercised sovereignty and subsisted in the Hawaiian Islands in 1778 and which peoples thereafter continued to reside in Hawaii.”<sup>7</sup>

#### Hawaiian

1. “Hawaiian means any descendant of the aboriginal peoples inhabiting the Hawaiian Islands which exercised sovereignty and subsisted in the Hawaiian Islands in 1778, and which peoples thereafter have continued to reside in Hawaii.”<sup>8</sup>
2. Hawaiians meaning “descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778.”<sup>9</sup>

#### Pacific Islander (also Pasifika)

1. “Pacific Islanders refers to the original inhabitants of the islands of Oceania.”<sup>10</sup>
2. Dr. Lilikalā Kame’eleihiwa defines Pacific Islanders as “the people whose ancestors were on [the Pacific] islands.”<sup>11</sup>
3. “A native or a descendant of a native of one of the islands of Melanesia, Micronesia, or Polynesia in the Pacific Ocean.”<sup>12</sup>
4. “Pacific Islanders refer to those whose origins are the original peoples of Polynesia, Micronesia, and Melanesia. Polynesia includes Hawaii (Native Hawaiian), Samoa (Samoan), American Samoa (Samoan), Tokelau (Tokelauan), Tahiti (Tahitian), and Tonga (Tongan). Micronesia includes Guam (Guamanian or Chamorro), Mariana Islands (Mariana Islander), Saipan (Saipanese), Palau (Palauan), Yap (Yapanese), Chuuk (Chuukese), Pohnpei (Pohnpeian), Kosrae (Kosraean), Marshall Islands (Marshallese), and Kiribati (I-Kiribat). Melanesia includes Fiji

<sup>4</sup> U.S. Congress S.J. Res 19 -1993 (accessed August 3, 2022)

[https://www.doi.gov/sites/doi.gov/files/uploads/apology\\_resolution\\_107\\_stat\\_1510.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/apology_resolution_107_stat_1510.pdf)

<sup>5</sup> Department of Hawaiian Home Lands (accessed August 2, 2022) <https://dhhl.hawaii.gov/hhc/laws-and-rules/>

<sup>6</sup> Kahalekai v. Doi - section V, line 342 (accessed August 2, 2022) <https://casetext.com/case/kahalekai-v-doi>

<sup>7</sup> Hawaii Rev Stat § 10-2 (accessed August 3, 2022) <https://law.justia.com/codes/hawaii/2021/title-1/chapter-10/section-10-2/>

<sup>8</sup> Ibid.

<sup>9</sup> Office of Hawaiian Affairs (accessed August 2, 2022) <https://www.oha.org/about/abouthistory/>

<sup>10</sup> Hawaii Journal of Social Welfare (accessed August 9, 2022) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8538117/>

<sup>11</sup> Today, How inclusive is 'AAPI'? Pacific Islanders debate the label, interview (accessed August 9, 2022)

<https://www.today.com/news/how-inclusive-aapi-pacific-islanders-debate-label-t218371>

<sup>12</sup> Merriam-Webster (accessed August 9, 2022) <https://www.merriam-webster.com/dictionary/Pacific%20Islander>



(Fijian), Papau New Guinea (Papua New Guinean), Solomon Islands (Solomon Islander), and Vanuatu (Ni-Vanuatu).”<sup>13</sup>

5. “A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.” “Including Carolinian, Fijian, Kosraean, Melanesian, Micronesian, Northern Mariana Islander, Palauan, Papua New Guinean, Ponapean (Pohnpeian), Polynesian, Solomon Islander, Tahitian, Tarawa Islander, Tokelauan, Tongan, Trukese (Chuukese), and Yapese.”<sup>14</sup>
6. “People who trace their origins to the countries, states, jurisdictions and/or the diasporic communities of the [Pacific Islands], including: Carolinian, Chamorro, Chuukese, Fijian, Guamanian, Hawaiian, Kosraean, Marshallese, Native Hawaiian, Niuean, Palauan, Pohnpeian, Papua New Guinean, Samoan, Tokelauan, Tongan, Yapese.”<sup>15</sup>
7. Additional Hawaiian sources that would require outreach and discussion with scholars.<sup>16</sup>

## 2. Definitions and aspects of energy and environmental justice

Table 1 provides terms to describe fundamental energy and environmental justice concepts.

**Table 1.** Definitions of energy and environmental justice.

Term	Definition
Climate Justice [2]	The remediation of the impacts of climate change on poor people and people of color, and compensation for harms suffered by such communities due to climate change.
Energy Democracy [2]	The notion that communities should have a say and agency in shaping and participating in their energy future.
Energy Equity [2]	The goal of energy equity is to achieve equity in both the social and economic participation in the energy system, while also remediating social, economic, and health burdens on those historically harmed by the energy system.
Environmental Justice [2]	The recognition and remediation of the disproportionately high and adverse human health or environmental effects on communities of color and low-income communities. The key principles of the movement include fair distribution of the burdens of development, and involvement in all aspects of the “development, implementation and enforcement of environmental laws, regulation, and policies.” [3]
Equity [2]	Equity or justice “refers to achieved results where advantage and disadvantage are not distributed on the basis of” [4] social identities. “Strategies that produce equity must be targeted to address the unequal needs, conditions, and positions of people and communities that are created by institutional and structural barriers.” [4]
Just Transition [2]	The transition away from the fossil-fuel economy to a new economy that provides “dignified, productive, and ecologically sustainable livelihoods; democratic governance; and ecological resilience.” [5]

<sup>13</sup> CSUSM Defining Diaspora: Asian, Pacific Islander, and Desi Identities (accessed August 9, 2022) <https://www.csusm.edu/ccc/programs/diaspora.html>

<sup>14</sup> Office of Management and Budget, Vol. 62, No. 210, pg. 58786 (accessed August 9, 2022) <https://www.govinfo.gov/content/pkg/FR-1997-10-30/pdf/97-28653.pdf>

<sup>15</sup> Asian Pacific Institute on Gender-Based Violence (accessed August 9, 2022) <https://www.api-gbv.org/resources/census-data-api-identities/>

<sup>16</sup> University of Hawaii, Center for Pacific Island Studies <https://hawaii.edu/cpis/become-student/oceania/>

Table 2 describes various forms of justice related to renewable energy procurement.

**Table 2.** Definitions of energy justice tenets.

Term	Definition
Distributive Equity <sup>[6]</sup>	Distributive equity is recognized as sustainability programs and policies resulting in fair distributions of benefits and burdens across all segments of a community, prioritizing those with highest need.
Procedural Equity <sup>[6]</sup>	Procedural equity is the inclusive, accessible, authentic engagement and representation in processes to develop or implement sustainability programs and policies.
Recognition Justice <sup>[12]</sup>	Recognition justice identifies who is being ignored in decision-making, and how that should be remedied so that all individuals are fairly represented and offered equal political rights.
Restorative Justice (Intergenerational Justice) <sup>[7]</sup>	Restorative justice relies on making decisions based on whether a decision would “increase rather than limit the development options of future generations.” <sup>[8]</sup>

Table 3 provides terms to describe demographics, identities, and how communities are affected by pollution and energy decision making.

**Table 3.** Definitions of populations.

Term	Definition
Native Hawaiian	TBD (see Section 1)
Hawaiian	TBD (see Section 1)
Pacific Islander	TBD (see Section 1)
Disadvantaged Communities <sup>[1]</sup>	Those who most suffer from economic, health, and environmental burdens.
Environmental Communities <sup>[1]</sup>	Those who are most affected by environmental harms and risks.
Fenceline Communities <sup>[1]</sup>	Communities living in closest proximity to dangerous facilities (within one-tenth of a facility's vulnerability zone).
Frontline Communities <sup>[1]</sup>	Communities that experience the first and worst of air pollution resulting from energy systems.
Highly Impacted Communities <sup>[1]</sup>	Communities living in geographic locations characterized by energy inequity and facing economic or historical barriers to participation in energy decisions and solutions.
Low- to Moderate-income Persons <sup>[1]</sup>	People who make less than 80% of the area median income.
Marginalized People <sup>[1]</sup>	People excluded from participating in decision-making and those who lack access to basic economic, political, cultural and social activities.
Over-burdened Populations <sup>[1]</sup>	Minority, low-income, tribal or Indigenous populations, or geographic locations that potentially experience disproportionate environmental harms and risks.
Underserved Communities <sup>[1]</sup>	People who have a decreased level of service or access to energy system services.
Vulnerable Populations <sup>[1]</sup>	Those who are economically disadvantaged, racial and ethnic minorities, the elderly, rural residents, those with inadequate education, and those with other socioeconomic challenges.

Table 4 defines measurements of how insufficient energy access may be experienced by residents.

**Table 4.** Definitions of energy inequity outcomes.

Term	Definition
Energy Burden <sup>[1]</sup>	The percent of a household's income spent to cover energy cost.
Energy Insecurity <sup>[1]</sup>	The inability of a household to meet their basic needs.
Energy Poverty <sup>[1]</sup>	The lack of access to basic, life-sustaining energy.
Energy Vulnerability <sup>[1]</sup>	The propensity of a household to suffer from a lack of adequate energy services in the home.



## References

1. Tarekegne, B. W., Pennell, G. R., Preziuso, D. C., & O'Neil, R. S. (2021). Review of Energy Equity Metrics. *No. PNNL-32179*. Pacific Northwest National Laboratory, Richland, WA.
2. Baker, S., DeVar, S., & Prakash, S. (2019). The Energy Justice Workbook. *Initiative for Energy Justice*.
3. Heffron, R. J. (2021). What is the “just transition”? *Achieving a Just Transition to a Low-Carbon Economy*. Palgrave Macmillan, Cham. DOI: 10.1007/978-3-030-89460-3\_2
4. Race Matters Institute. (2020). About Us. Retrieved from: <https://viablefuturescenter.org/racemattersinstitute/about-us-2/> (last visited Jun. 9, 2022).
5. Climate Justice Alliance. Just Transition: A Framework for Change. Retrieved from: <https://climatejusticealliance.org/just-transition/> (last visited Jun. 9, 2022).
6. City and County of Honolulu, Climate Change Commission. Climate Change and Social Equity Guidance Document. (2020). Retrieved from: [https://static1.squarespace.com/static/5e3885654a153a6ef84e6c9c/t/5feb95d232da5052ae2fb8da/1609274837864/Climate\\_Change\\_Social\\_Equity\\_Guidance\\_Document\\_FINAL.pdf](https://static1.squarespace.com/static/5e3885654a153a6ef84e6c9c/t/5feb95d232da5052ae2fb8da/1609274837864/Climate_Change_Social_Equity_Guidance_Document_FINAL.pdf) (last visited August 30, 2022).
7. Bryan, W. D. & Moss, J. (Working Paper). Rooting Energy Equity in the South: A Review of Frameworks and Metrics.
8. Brown, M. A., Soni, A., Lapsa, M. V., & Southworth, K. (2020). Low-Income Energy Affordability: Conclusions from a Literature Review. *ORNL/TM-2019/1150*. Oak Ridge National Laboratory, Oak Ridge, TN.
9. EPA. State Energy and Environment Guide to Action: Electricity Resource Planning and Procurement. (2022). Retrieved from: <https://www.epa.gov/statelocalenergy/energy-and-environment-guide-action> (last visited Aug. 12, 2022).
10. NAACP and Clean Air Task Force. Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities. (2017). <https://naacp.org/resources/fumes-across-fence-line-health-impacts-air-pollution-oil-gas-facilities-african-american> (last visited Aug. 12, 2022).
11. DOE Grid Modernization. Advancing Equity in Utility Regulation. (2021). [https://www.nclc.org/images/pdf/energy\\_utility\\_telecom/electric\\_and\\_gas/Rpt\\_adv\\_equity\\_util\\_reg.pdf](https://www.nclc.org/images/pdf/energy_utility_telecom/electric_and_gas/Rpt_adv_equity_util_reg.pdf) (last visited Aug. 12, 2022)
12. Jenkins, K., McCauley, D., Heffron, R., Stephan, H., & Rehner, R. (2016). Energy justice: a conceptual review. *Energy Research & Social Science*, 11, 174-182.
13. Hanus, N., Barlow, J., Satchwell, A., & Cappers, P. (Working Paper). Current state of U.S. Grid Modernization Lab Consortium. Department of Energy.

CERTIFICATE OF SERVICE

The foregoing Order was served on the date it was uploaded to the Public Utilities Commission's Document Management System and served through the Document Management System's electronic Distribution List.



FILED

2022 Dec 13 PM 12:59

PUBLIC UTILITIES  
COMMISSION

The foregoing document was electronically filed with the State of Hawaii Public Utilities Commission's Document Management System (DMS).